

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CONNECTU LLC,

Plaintiff,

v.

MARK ZUCKERBERG, EDUARDO
SAVERIN, DUSTIN MOSKOWITZ,
ANDREW MCCOLLUM, CHRISTOPHER
HUGHES, THE FACEBOOK, INC,

Defendants.

NO.

DECLARATION OF JOHN TAVES IN
SUPPORT OF MOTION TO QUASH
SUBPOENA DUCES TECUM

Relating to USDC District of
Massachusetts Civil Action
No. 2004-11923 DPW

MARK ZUCKERBERG, THE FACEBOOK,
INC.,

Plaintiff-in-Counterclaim,

v.

CONNECTU LLC,

Defendant-in-Counterclaim,

and

CAMERON WINKLEVOSS, TYLER
WINKLEVOSS, DIVYA NARENDRA,

Additional
Defendants-in-Counterclaim.

DECLARATION OF JOHN TAVES IN SUPPORT OF MOTION TO
QUASH SUBPOENA DUCES TECUM - 1

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1923002.1

Williams, Kastner & Gibbs PLLC
Two Union Square, Suite 4100 (98101-2380)
Mail Address: P.O. Box 21926
Seattle, Washington 98111-3926
(206) 628-6600

1 I, John Taves, hereby declare and state as follows:

2 1. I am the principal owner, director and officer of Pacific Northwest Software,
3 Inc. ("PNWS"). I am an authorized records custodian of Pacific Northwest Software, Inc. I
4 make this declaration based upon personal knowledge.
5

6 2. I was served with a subpoena duces tecum by Facebook for the production of
7 documents relating to my former customer, ConnectU, LLC in *ConnectU v. Facebook, Inc., et*
8 *al.*, Cause Number 1:04-CV-11923, USDC District of Massachusetts on or about September
9 28, 2006. *See* Exhibit A.
10

11 3. PNWS offers custom software and web development for companies. PNWS
12 performed development services for ConnectU, LLC from December 2004 through June 2006.

13 4. I executed records custodian affidavits as to requests 1, 2 and 4 of the subpoena
14 duces tecum. After searching the files and back-up server for PNWS, no responsive documents
15 were located. *See* Exhibit B.

16 5. PNWS did not start working for ConnectU until late December 2004.

17 6. The communications that Facebook seeks in the subpoena duces tecum include
18 all communications that PNWS had with ConnectU, without any date restriction. There are
19 over 500 documents that were pulled from the server that may include communications
20 involving ConnectU. These communications involve confidential, proprietary matters. The
21 requests are overbroad in that they also seek documents that while they reference ConnectU,
22 also include confidential, proprietary information regarding some of PNWS's other clients.
23 These documents include materials that would disclose PNWS marketing strategies, business
24
25

DECLARATION OF JOHN TAVES IN SUPPORT OF MOTION TO
QUASH SUBPOENA DUCES TECUM - 2

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Williams, Kastner & Gibbs PLLC
Two Union Square, Suite 4100 (98101-2380)
Mail Address: P.O. Box 21926
Seattle, Washington 98111-3926
(206) 628-6600

1 strategies and other financial and business information. Such information would need to be
2 redacted prior to disclosure.

3 7. Facebook also seeks billing records and invoices regarding ConnectU. Payment
4 was handled through wire transfers and would include the disclosure of confidential financial
5 information of both ConnectU and PNWS.
6

7 The foregoing statement is made under penalty of perjury under the laws of the State of
8 Washington and is true and correct.

9 Signed at Redmond, Washington, this 26th day of October, 2006.

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11 
12 JOHN TAVES

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DECLARATION OF JOHN TAVES IN SUPPORT OF MOTION TO
QUASH SUBPOENA DUCES TECUM - 3

(_____)

1923002.1

Williams, Kastner & Gibbs PLLC
Two Union Square, Suite 4100 (98101-2380)
Mail Address: P.O. Box 21926
Seattle, Washington 98111-3926
(206) 628-6600

EXHIBIT A

09/27/2006 10:06

010-078-3851

US LEGAL SUPPORT

PAGE 02/25

Reference Number# 00362462-06

U.S. LEGAL SUPPORT**DUE: 10/11/06**

☒ **Calabasas**
42321 Lex Virginia Road
Calabasas, CA 91302
Phone: 818-878-3008
Fax: 818-878-9851

☐ **Pasadena**
127 N. Madison Ave., Suite 104
Pasadena, CA 91101
Phone: 626-397-9699
Fax: 626-397-9699

☐ **Santa Monica**
3231 Ocean Park, Suite 106
Santa Monica, CA 90405
Phone: 310-396-6414
Fax: 310-396-1764

☐ **Sacramento**
1330 Harbor Blvd., Suite 207
West Sacramento, CA 95691
Phone: 916-372-2202
Fax: 916-372-2077

☐ **San Diego**
1751 Hotel Circle South, Suite 230
San Diego, CA 92108
Phone: 619-293-3883
Fax: 619-293-3884

☐ **Inland Empire**
1420 E. Cooley Drive, Suite 102
Colton, CA 92324
Phone: 909-872-0757
Fax: 909-872-0882

☐ **Orange County**
1748 W. Katella Ave., Suite 209
Orange, CA 92667
Phone: 714-532-1600
Fax: 714-532-1011

☐ **San Francisco**
144 South Spruce Ave.
So. San Francisco, CA 94080
Phone: 650-873-9189
Fax: 650-873-8081

NOTICE TO PARTIES BEING SUBPOENAED

TO THE CUSTODIAN OF RECORDS OF:
Pacific Northwest Software
2210 177th Place NE
Redmond, WA 98052

RECORDS REGARDING:
Connectu
DOB:
SSN:

RECORDS SOUGHT:

Obtain all documents and records, including all communications that refer to, relate to, or reflect the organization or membership of Connectu LLC, Divya Narendra, etc. SEE ATTACHMENT A AND B FOR DETAILS.

- 1) Remember to sign the enclosed Declaration of Custodian of Records form.
- 2) Please include our reference number, 00362462-06, on all correspondence.

You may satisfy the provisions of this subpoena by complying with any one of the following instructions:

- 1) Allow U.S. LEGAL SUPPORT to photocopy the requested records.
- 2) Appear at the scheduled time and place, bringing with you the originals of all of the records described in the subpoena.
- 3) Mail your response to our attention, taking the following steps:
 - a. Copy the requested records (or duplicate the requested items or materials). If no such records or materials, go to step c.
 - b. Contact U.S. LEGAL SUPPORT prior to sending the records if there are any additional fees for producing the records or materials.
 - c. Complete the declaration form (the last page in the subpoena packet sent to you) to indicate the records and/or items being sent, or to indicate that you have none of the records and/or items requested if they do not exist.
 - d. Mail records to the field office whose address is checked off at the top of this notice. Please make sure to include our reference number (found in the upper right hand corner of this notice) on all correspondence you send.

WHEN THE AFOREMENTIONED RECORDS ARE AVAILABLE TO BE COPIED, PLEASE CONTACT THE OFFICE INDICATED ABOVE.

IF YOU HAVE ANY QUESTIONS REGARDING THE ATTACHED SUBPOENA OR HOW TO RESPOND, PLEASE FEEL FREE TO GIVE US A CALL.

Reference Number# 00362462-06 DUE: 10/11/06

Issued by the

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON

CONNECTU LLC

V.

SUBPOENA IN A CIVIL CASE

FACEBOOK, INC., ET AL.

Case Number: 1:04-CV-11923
USDC District of MassachusettsTO: Pacific Northwest Software
2210 177th Place NE
Redmond WA 98052

- ☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

- ☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
Orrick, Herrington & Sutcliffe LLP, 719 Second Avenue, Suite 900, Seattle, WA	October 18, 2006, 9:00 a.m.

- ☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

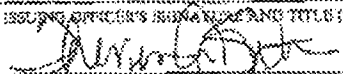
See Attachment A

PLACE	DATE AND TIME
Orrick, Herrington & Sutcliffe LLP, 719 Second Avenue, Suite 900, Seattle, WA	October 11, 2006, 9:00 a.m.

- ☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below:

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
	September 26, 2006

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Theresa A. Sutfen, Counsel for Defendants Facebook, Zuckerberg, Moskowitz, McCollum, and Haglies (Tel: 650.614.7400)
Orrick, Herrington & Sutcliffe LLP
1000 Marsh Road, Menlo Park, CA 94025

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on last page)

¹ If action is pending in district other than district of issuance, state district under case number.

45. Federal Rules of Civil Procedure, Parts C & D:

(J) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (8) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance,

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly conducts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend

trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an untested expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(K) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CONNECTU LLC,
Plaintiffs,

v.

MARK ZUCKERBERG, EDUARDO SAVERIN,
DUSTIN MOSKOVITZ, ANDREW MCCOLLUM,
CHRISTOPHER HUGHES, and FACEBOOK,
INC.,

Defendants.

MARK ZUCKERBERG, and FACEBOOK, INC.,
Counterclaimants,

v.

CONNECTU LLC,
Counterdefendant,

and

CAMERON WINKLEVOSS, TYLER
WINKLEVOSS, and DIVYA NARENDRA,

Additional Counterdefendants.

CIVIL ACTION NO. 1:04-CV-11923
(DPW)

AMENDED NOTICE OF SUBPOENA TO PACIFIC NORTHWEST SOFTWARE

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT pursuant to Rules 30 and 45 of the Federal Rules of Civil Procedure Defendant and Counterclaimant Facebook, Inc. will take, by oral examination, the deposition of Pacific Northwest Software, which will commence on October 18, 2006, at 9:00 A.M. at the law offices of Orrick, Herrington & Sutcliffe LLP, 719 Second Avenue, Seattle, Washington, or at a time and place agreed upon by counsel. The deposition will continue from day to day until completed. The testimony of Pacific Northwest

-1-

NOTICE OF SUBPOENA TO PACIFIC NORTHWEST SOFTWARE

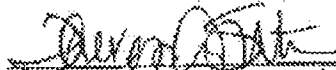
ONS West240087057.1

Software will be recorded by video, as well as stenographic means including the instant visual display of testimony. The deposition will be taken before an officer authorized by law to administer oaths pursuant to Rule 28 of the Federal Rules of Civil Procedure.

Pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Pacific Northwest Software shall designate one or more officers, directors, agents, employees or other persons who have knowledge of and will to testify on behalf of Pacific Northwest Software with respect to the subjects specified in Attachment B.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 45 of the Federal Rules of Civil Procedure, Facebook will request that Pacific Northwest Software produce the documents identified in Attachment A to the subpoena for inspection and copying on October 11, 2006, at the address listed in the subpoena. A true and correct copy of the subpoena is attached.

Dated: September 26, 2006


Theresa A. Sutton (*Admitted Pro Hac Vice*)
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
Menlo Park, CA 94025
Telephone: (650) 614-7400
Facsimile: (650) 614-7401

PROSKAUER ROSE, LLP
One International Plaza, 14th Floor
Boston, MA 02110-2600
Telephone: (617) 526-9600
Facsimile: (617) 526-9899

Attorneys for Mark Zuckerberg,
Dustin Moskovitz, Andrew McCollum,
Christopher Hughes, and Facebook, Inc.

Attachment A

1. All communications that refer to, relate to, or reflect the organization or membership of ConnectU LLC as of September 2, 2004, including all communications with any party representing ConnectU LLC or www.connectu.com which reflects work performed for ConnectU LLC or the responsibilities of that party to ConnectU LLC.
2. All communications that refer to Divya Narendra (including as a recipient of any such communication) and that summarize, describe, refer or relate to ConnectU LLC, www.connectu.com, or HarvardConnection.
3. All communications between you and HarvardConnection; iMarc, LLC; ConnectU, LLC; ConnectU, Inc.; Cameron Winklevoss; Tyler Winklevoss; Howard Winklevoss; and/or Maria Antonelli.
4. All communications that summarize, describe or refer to the formation and membership of ConnectU LLC or Harvard Connection.
5. All handwritten notes, billing records, emails, electronic communications, or the like, which refer or relate to ConnectU LLC, www.connectu.com, www.facebook.com, and/or TheFacebook.
6. All billing or similar records for work performed for, on behalf of, or by, Harvard Connection, ConnectU LLC, and/or www.connectu.com, including the dates of such work.
7. All communications that summarize the role of Winklevoss Consultants, Inc., Winklevoss Technologies, LLC or Winklevoss LLC, to the extent that such communications also concern Harvard Connection, ConnectU LLC or www.connectu.com.

Attachment B**Topics for Deposition**

1. The creation of, authenticity of, location of, attempt to identify, and efforts to locate and produce all documents identified in Attachment A of this subpoena *duces tecum*.
2. Communications regarding the organization or membership of ConnectU LLC as of September 2, 2004, including all communications with any party representing ConnectU LLC or www.connectu.com which reflects work performed for ConnectU LLC or the responsibilities of that party to ConnectU LLC.
3. Communications regarding Divya Narendra and ConnectU LLC, www.connectu.com, or HarvardConnection.
4. Communications between you and HarvardConnection; iMarc, LLC; ConnectU, LLC; ConnectU, Inc.; Cameron Winklevoss; Tyler Winklevoss; Howard Winklevoss; and/or Maria Antonelli.
5. Communications regarding the formation and membership of ConnectU LLC or Harvard Connection.
6. Corporate (including, without limitation, notes, billing, or financial) records that refer to ConnectU LLC, www.connectu.com, www.facebook.com, TheFacebook, and/or Harvard Connection.
7. Your relationship with, including any work you performed for ConnectU LLC, www.connectu.com, and Harvard Connection.
8. Communications regarding Winklevoss Consultants, Inc, Winklevoss Technologies, LLC or Winklevoss LLC, to the extent that such communications also concern Harvard Connection, ConnectU LLC or www.connectu.com.

2006 10:05 810-878-9851

US LEGAL SUPPORT

PAGE 10/26

U.S. LEGAL SUPPORT
 4232-1 Las Virgenes Road, Suite 100, Calabasas, California 91302
 PHONE: (818) 878-9227 FAX: (818) 878-9851

00362462-06

DECLARATION OF CUSTODIAN OF RECORDSRECORDS ON: Connecticut

D.O.B.: _____ S.S.N.: _____

LOCATION: Pacific Northwest Software

I being the duly authorized custodian of records and having the authority to certify the records,
 declare the following:

1. DESCRIPTION OF RECORDS PRODUCED: (Must select at least one)

☐ Medical ☐ Billing ☐ Radiological ☐ Insurance ☐ Employment
☐ Payroll ☐ Academic ☐ Other _____

The records were prepared by the personnel of the business in the ordinary course of business at
 or near the time of the act, condition, or event.

2. THE RECORDS INDICATED BELOW WERE REQUESTED BUT DO NOT EXIST:

☐ Medical ☐ Billing ☐ WCAB Recs ☐ Insurance ☐ Physical Therapy ☐ Sign-in sheets
☐ Employment ☐ Pathology reports/materials ☐ Prescription/Pharmacy ☐ Photographs
☐ Videotapes ☐ Paramedic/Ambulance ☐ Psychiatric ☐ Payroll ☐ Academic ☐ Xrays
☐ Radiological ☐ Other/Explanation _____

3. IN WHAT MANNER WERE THE PRODUCED RECORDS PREPARED: (Must select at least one)

☐ Data/Computer Generated ☐ Typed/Hand Written Notes ☐ Summary ☐ Radiological
☐ Audio/Video ☐ Pathological ☐ Other _____

4. CERTIFICATION OF RECORDS COPIED OR OBTAINED: (Must select at least one)

☐ The produced records is a true copy of all the records described in the Deposition Subpoena,
 Subpoena Duces Tecum or Authorization.
☐ Pursuant to Evidence Code Section 1560(e), the original records described in the
 Deposition Subpoena/Subpoena Duces Tecum were delivered to the Attorney or the
 Attorney's representative for copying at the witness' place of business.
☐ The following records were omitted or could not be produced at this time for the following reason:

5. CERTIFICATION OF NO RECORDS: (Must Select at least one)

☐ A thorough search of our files, carried out under my direction revealed no documents,
 records or other material called for in the Subpoena or Authorization.
☐ Existing records not within the time limitation set forth in the request.
☐ All records have been destroyed in accordance with our document retention policy.
☐ Other explanation: _____

Under penalty of perjury and under the laws of California, I the CUSTODIAN of RECORDS,
 declare that the foregoing is true and correct.

Date: _____ City: _____ California.

Custodian
 Signature

Print name _____ Signed _____

(OFFICE USE ONLY) CERTIFICATION OF PROFESSIONAL PHOTOCOPIER

I, the undersigned, declare that I made true copies of all of the original records that were given to me
 by the Custodian of Records at the above named location. I declare under penalty of perjury that the
 foregoing is true and correct.

Executed on _____ At _____ California

Print name _____ Signed _____

v. (P) Subpoena in a Civil Case

Issued by the

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON

CONNECTU LLC

V.

SUBPOENA IN A CIVIL CASE

FACEBOOK, INC., ET AL

Case Number: 1:04-CV-11923
USDC District of MassachusettsTO: John Taves
1514 233rd Place, NE #1
Sammamish, Washington 98074

- ☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

- ☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
Orrick, Herrington & Sutcliffe LLP, 719 Second Avenue, Suite 900, Seattle, WA	October 18, 2006, 1:00 p.m.

- ☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

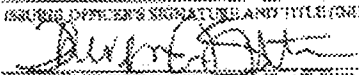
See Attachment A

PLACE	DATE AND TIME
Orrick, Herrington & Sutcliffe LLP, 719 Second Avenue, Suite 900, Seattle, WA	October 11, 2006, 9:00 a.m.

- ☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
	September 26, 2006

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Theresa A. Sutton, Counsel for Defendants Facebook, Zuckerberg, Moskovitz, McCollum, and Hughes (Tel: 650.514.7400)
Orrick, Herrington & Sutcliffe LLP
1800 Marsh Road, Menlo Park, CA 94025

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

Federal Rules of Civil Procedure, Part C & D:

PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena is issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(3) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (7) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (ii) of this rule, such a person may in order to attend

trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information; or

(ii) requires disclosure of an unclaimed expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party; or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CONNECTU LLC,

Plaintiffs,

v.

MARK ZUCKERBERG, EDUARDO SAVERIN,
DUSTIN MOSKOVITZ, ANDREW MCCOLLUM,
CHRISTOPHER HUGHES, and FACEBOOK,
INC.,

Defendants.

MARK ZUCKERBERG, and FACEBOOK, INC.,

Counterclaimants,

v.

CONNECTU LLC,

Counterdefendant,

and

CAMERON WINKLEVOSS, TYLER
WINKLEVOSS, and DIVYA NARENDRA,

Additional Counterdefendants.

CIVIL ACTION NO. 1:04-CV-11923
(DPW)

NOTICE OF SUBPOENA TO JOHN TAVES

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT pursuant to Rules 30 and 45 of the Federal Rules of Civil Procedure Defendant and Counterclaimant Facebook, Inc. will take, by oral examination, the deposition of John Taves, which will commence on October 18, 2006, at 1:00 P.M. at the law offices of Orrick, Herrington & Sutcliffe, LLP, 719 Second Avenue, Seattle, Washington, or at a time and place agreed upon by counsel. The deposition will continue from

-1-

NOTICE OF SUBPOENA TO JOHN TAVES

0013 Wen260097015.1

day to day until completed. The testimony of Mr. Taves will be recorded by video, as well as stenographic means including the instant visual display of testimony. The deposition will be taken before an officer authorized by law to administer oaths pursuant to Rule 28 of the Federal Rules of Civil Procedure.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 45 of the Federal Rules of Civil Procedure, Facebook will request that Mr. Taves produce the documents identified in Attachment A to the subpoena for inspection and copying at the same date, time and address listed in the subpoena. A true and correct copy of the subpoena is attached.

Dated: September 26, 2006


Theresa A. Sutton (*Admitted Pro Hac Vice*)
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
Menlo Park, CA 94025
Telephone: (650) 614-7400
Facsimile: (650) 614-7401

PROSKAUER ROSE, LLP
One International Plaza, 14th Floor
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Attorneys for Mark Zuckerberg,
Dustin Moskovitz, Andrew McCollum,
Christopher Hughes, and Facebook, Inc.

10:06 010-878-9831

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Attachment A

1. All communications that refer to, relate to, or reflect the organization or membership of ConnectU LLC as of September 2, 2004, including all communications with any party representing ConnectU LLC or www.connectu.com which reflects work performed for ConnectU LLC or the responsibilities of that party to ConnectU LLC.
2. All communications that refer to Divya Narendra (including as a recipient of any such communication) and that summarize, describe, refer or relate to ConnectU LLC, www.connectu.com, or HarvardConnection.
3. All communications between you and HarvardConnection; iMare, LLC; ConnectU, LLC; ConnectU, Inc.; Cameron Winklevoss; Tyler Winklevoss; Howard Winklevoss; and/or Maria Antonelli.
4. All communications that summarize, describe or refer to the formation and membership of ConnectU LLC or Harvard Connection.
5. All handwritten notes, billing records, emails, electronic communications, or the like, which refer or relate to ConnectU LLC, www.connectu.com, www.facebook.com, and/or TheFacebook.
6. All billing or similar records for work performed for, on behalf of, or by, Harvard Connection, ConnectU LLC, and/or www.connectu.com, including the dates of such work.
7. All communications that summarize the role of Winklevoss Consultants, Inc, Winklevoss Technologies, LLC or Winklevoss LLC, to the extent that such communications also concern Harvard Connection, ConnectU LLC or www.connectu.com.

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918-878-9851

US LEGAL SUPPORT

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LEGAL SUPPORT

1 Las Virgenes Road, Suite 100, Calabasas, California 91302
 PHONE: (818) 878-9227 FAX: (818) 878-9851

00362462-04

DECLARATION OF CUSTODIAN OF RECORDSRECORDS ON: Connectis

D.O.B.: _____ S.S.N.: _____

LOCATION: John Taves

I being the duly authorized custodian of records and having the authority to certify the records,
 declare the following:

1. DESCRIPTION OF RECORDS PRODUCED: (Must select at least one)

☐ Medical ☐ Billing ☐ Radiological ☐ Insurance ☐ Employment
☐ Payroll ☐ Academic ☐ Other _____

The records were prepared by the personnel of the business in the ordinary course of business at
 or near the time of the act, condition, or event.

2. THE RECORDS INDICATED BELOW WERE REQUESTED BUT DO NOT EXIST:

☐ Medical ☐ Billing ☐ WCAB Recs ☐ Insurance ☐ Physical Therapy ☐ Sign-in sheets
☐ Employment ☐ Pathology reports/materials ☐ Prescription/Pharmacy ☐ Photographs
☐ Videotapes ☐ Paramedic/Ambulance ☐ Psychiatric ☐ Payroll ☐ Academic ☐ Xrays
☐ Radiological ☐ Other/Explanation _____

3. IN WHAT MANNER WERE THE PRODUCED RECORDS PREPARED: (Must select at least one)

☐ Data/Computer Generated ☐ Typed/Hand Written Notes ☐ Summary ☐ Radiological
☐ Audio/Video ☐ Pathological ☐ Other _____

4. CERTIFICATION OF RECORDS COPIED OR OBTAINED: (Must select at least one)

☐ The produced records is a true copy of all the records described in the Deposition Subpoena,
 Subpoena Duces Tecum or Authorization.
☐ Pursuant to Evidence Code Section 1560(e), the original records described in the
 Deposition Subpoena/Subpoena Duces Tecum were delivered to the Attorney or the
 Attorney's representative for copying at the witness' place of business.
☐ The following records were omitted or could not be produced at this time for the following reason:

5. CERTIFICATION OF NO RECORDS: (Must Select at least one)

☐ A thorough search of our files, carried out under my direction revealed no documents,
 records or other material called for in the Subpoena or Authorization.
☐ Existing records not within the time limitation set forth in the request.
☐ All records have been destroyed in accordance with our document retention policy.
☐ Other explanation: _____

Under penalty of perjury and under the laws of California, I the **CUSTODIAN** of RECORDS,
 declare that the foregoing is true and correct.

Date: _____ City: _____ California.

Custodian
 Signature

Print name _____ Signed _____

(OFFICE USE ONLY) CERTIFICATION OF PROFESSIONAL PHOTOCOPIER

I, the undersigned, declare that I made true copies of all of the original records that were given to me
 by the Custodian of Records at the above named location. I declare under penalty of perjury that the
 foregoing is true and correct.

Executed on _____ At _____ California

Print name _____ Signed _____

EXHIBIT B

2886 10/25 810-878-9851

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S. LEGAL SUPPORT4232-1 Las Virgenes Road, Suite 100, Calabasas, California 91302
PHONE: (818) 878-9227 FAX: (818) 878-9851

00382462-06

DECLARATION OF CUSTODIAN OF RECORDS

RECORDS ON: Connecticut

D.O.B.: B.S.N.

LOCATION: Pacific Northwest Software

Having the duly authorized custodian of records and having the authority to certify the records, declare the following:

1. DESCRIPTION OF RECORDS PRODUCED: (Must select at least one)☐ Medical ☐ Billing ☐ Radiological ☐ Insurance ☐ Employment
☐ Payroll ☐ Academic ☐ Other

The records were prepared by the personnel of the business in the ordinary course of business at or near the time of the act, condition, or event.

2. THE RECORDS INDICATED BELOW WERE REQUESTED BUT DO NOT EXIST:☐ Medical ☐ Billing ☐ WCAB Recs ☐ Insurance ☐ Physical Therapy ☐ Sign-in sheets
☐ Employment ☐ Pathology reports/materials ☐ Prescription/Pharmacy ☐ Photographs
☐ Videotapes ☐ Paramedic/Ambulance ☐ Psychiatric ☐ Payroll ☐ Academic ☐ X-rays
☐ Radiological ☒ Other/Explanation: records relating to Requests 1, 2 and 4 on Attachment A**3. IN WHAT MANNER WERE THE PRODUCED RECORDS PREPARED:** (Must select at least one)☐ Data/Computer Generated ☐ Typed/Hand Written Notes ☐ Summary ☐ Radiological
☐ Audio/Video ☐ Pathological ☐ Other**4. CERTIFICATION OF RECORDS COPIED OR OBTAINED:** (Must select at least one)☐ The produced records is a true copy of all the records described in the Deposition Subpoena, Subpoena Duces Tecum or Authorization.☐ Pursuant to Evidence Code Section 1560(e), the original records described in the Deposition Subpoena/Subpoena Duces Tecum were delivered to the Attorney or the Attorney's representative for copying at the witness' place of business.☒ The following records were omitted or could not be produced at this time for the following reason:
Records relating to Requests 3, 5, 6 and 7 - see separate objection; a motion for protective order will be filed**5. CERTIFICATION OF NO RECORDS:** (Must Select at least one)☒ A thorough search of our files, carried out under my direction revealed no documents, records or other material called for in the Subpoena or Authorization. (Relating to Requests 1, 2 and 4)☐ Existing records not within the time limitation set forth in the request.☐ All records have been destroyed in accordance with our document retention policy.☐ Other explanation:

Under penalty of perjury and under the laws of California, I the CUSTODIAN of RECORDS, declare that the foregoing is true and correct.

Date:

10/17/06

City:

Redwood

Washington

XXXXXX

Custodian
Signature

Print name:

JOHN TAVES

Signed:

[Signature]

(OFFICE USE ONLY) CERTIFICATION OF PROFESSIONAL PHOTOCOPIER

I, the undersigned, declare that I made true copies of all of the original records that were given to me by the Custodian of Records at the above named location. I declare under penalty of perjury that the foregoing is true and correct.

Executed on:

At:

California

Print name:

Signed:

10:25 918-878-9851

US LEGAL SUPPORT

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LEGAL SUPPORT1 Las Virgenes Road, Suite 100, Calabasas, California 91302
PHONE: (818) 878-9227 FAX: (818) 878-9851

00362462-04

DECLARATION OF CUSTODIAN OF RECORDS

RECORDS (in: Connecticut)

D.O.B.:

S.S.N.:

LOCATION: John Taveo

I being the duly authorized custodian of records and having the authority to certify the records, declare the following:

1. DESCRIPTION OF RECORDS PRODUCED: (Must select at least one)Medical ☐ Billing ☐ Radiological ☐ Insurance ☐ Employment ☐
Payroll ☐ Academic ☐ Other ☐

The records were prepared by the personnel of the business in the ordinary course of business at or near the time of the act, condition, or event.

2. THE RECORDS INDICATED BELOW WERE REQUESTED BUT DO NOT EXIST:Medical ☐ Billing ☐ WCA# Recs ☐ Insurance ☐ Physical Therapy ☐ Sign-in sheets ☐
Employment ☐ Pathology reports/materials ☐ Prescription/Pharmacy ☐ Photographs ☐
Videotapes ☐ Paramedic/Ambulance ☐ Psychiatric ☐ Payroll ☐ Academic ☐ Xrays ☐
Radiological ☐ ☒ Other/Explanation: records relating to Requests 1, 2 and 4 on Attachment A**3. IN WHAT MANNER WERE THE PRODUCED RECORDS PREPARED:** (Must select at least one)Data/Computer Generated ☐ Typed/Hand Written Notes ☐ Summary ☐ Radiological ☐
Audio/Video ☐ Pathological ☐ Other ☐**4. CERTIFICATION OF RECORDS COPIED OR OBTAINED:** (Must select at least one)The produced records is a true copy of all the records described in the Deposition Subpoena, Subpoena Duces Tecum or Authorization.
Pursuant to Evidence Code Section 156(f)(1), the original records described in the Deposition Subpoena/Subpoena Duces Tecum were delivered to the Attorney or the Attorney's representative for copying at the witness' place of business.
☒ The following records were omitted or could not be produced at this time for the following reason:
Records relating to Requests 3, 5, 6 and 7, see separate objection; a motion for protective order will be filed**5. CERTIFICATION OF NO RECORDS:** (Must Select at least one)☒ A thorough search of our files, carried out under my direction revealed no documents, records or other material called for in the Subpoena or Authorization. (Relating to Requests 1, 2 and 4)
Existing records not within the time limitation set forth in the request.
All records have been destroyed in accordance with our document retention policy
Other explanation:

Under penalty of perjury and under the laws of California, I the CUSTODIAN of RECORDS, declare that the foregoing is true and correct.

Date:

10/17/06

City:

Redwood

Washington
000000Custodian
Signature

Print name:

JOHN TAVEO

Signed:

[Signature]

(OFFICE USE ONLY) CERTIFICATION OF PROFESSIONAL PHOTOCOPIER

I, the undersigned, declare that I made true copies of all of the original records that were given to me by the Custodian of Records at the above named location. I declare under penalty of perjury that the foregoing is true and correct.

Executed on:

At:

California

Print name:

Signed: